

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

v.

17 Cr. 434 (ARR)

ROSALIO MELENDEZ ROJAS,
Defendant.

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**SENTENCING SUBMISSION ON BEHALF
ON BEHALF OF ROSALIO MELENDEZ ROJAS**

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By ECF

August 31, 2021

Honorable Allyne R. Ross
United States District Judge
United States District Court
225 Cadman Plaza East
Brooklyn, N.Y. 11211

Re: United States v. Rosario Melendez Rojas,
17 Cr. 434 (ARR)

Dear Judge Ross:

Rosario Melendez Rojas is a 38 year old man damaged because of the absence of a positive male role model in his life and the environment and community where he grew up. Mr. Melendez grew up and lived in the small town Tenancingo in the state of Tlaxcala in Mexico. Mr. Melendez was doomed from birth. For over 50 years Tenacingo has been the center of the sex trade in Mexico. There are few ways to make a legitimate income in Tenacingo. Pimping and trafficking in prostitution is the only the way to gain a firm economic footing. Mr. Melendez viewed this as a child. His father was not a positive role model, in fact his father and other male role models failed to serve as positive role models. Mr. Melendez learned that a person could succeed financially by taking part in a trade that was common in the town.

During the most important years of Mr. Melendez' development his family members engaged in prostitution. This influenced Mr. Melendez' upbringing.

Mr. Melendez offers the failure of his father to be a role model, his mental and emotional history, his residence in a crime ridden area of the Mexico including witnessing crimes of violence and narcotics sales for your Honor to consider. These mitigating factors and other factors addressed below are presented for your Honor's consideration.

Please accept this letter on behalf of Rosario Melendez Rojas concerning his sentence.

Honorable Allyne R. Ross
August 31, 2021
Page 2

Childhood

Although Mr. Melendez' father was present in his life, he abandoned his responsibility to be a positive role model.

One work set forth:

Collectively, our findings indicate that role models can help adolescents overcome the risk they face by being exposed to negative nonparental adult behavior. Although role models played different roles for different adolescent psychosocial outcomes, overall, the results support resilience theory. Having someone to look up to appears to be an asset for adolescents, but this asset may not be universally applicable to all adolescent outcomes. Our findings are consistent with the notion that adults may be vital resources to help protect youth from the noxious effects of risk they face. (Fergus & Zimmerman, 2005)

(<http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2752426>)

The failures of his father and the example that his father and other members of the town exhibited pushed Mr. Melendez into the prostitution trade. The father's failures amounted to child abuse.

The National Institute of Justice states the following about childhood abuse:

Being abused or neglected as a child increases the likelihood of arrest as a juvenile by 59 percent, as an adult by 28 percent, and for a violent crime by 30 percent according to one study that looked at more than 1,500 cases over time (the researchers matched 900 cases of substantiated child abuse with more than 650 cases of children who had not been abused).

(http://www.nij.gov/topics/crime/child_abuse/impact-on-arrest-victimization.htm)

Crime in Mr. Melendez' town and its impact on him

Mr. Melendez grew up and lived in a neighborhood in Tennancingo where prostitution, violence and drug distribution were a common occurrence. Mr. Melendez faced stress and tension each day that he traveled between his home and school. Mr. Melendez' neighborhood was overrun with drugs and violence. As is common in communities with high rates of drug sales and prostitution violence was a regular experience throughout his life, both as an observer and a victim.

Honorable Allyne R. Ross
August 31, 2021
Page 3

Children exposed to various forms of violence such as physical abuse, community violence and parental neglect interfere with the healthy development of children such as Mr. Melendez.

The report sets forth:

Exposure of children to crimes like prostitution is a uniquely traumatic experience that has the potential to profoundly derail the child's security, health, happiness, and ability to grow and learn – with effects lasting well into adulthood. Even after witnessing crime or living in a town like Tenancingo, children suffer from severe problems with anxiety, depression, anger, grief and posttraumatic stress that can mar their relationships and family life and limit the success in school or work, not only in childhood but throughout their adult lives. Without services or treatment, even children who appear resilient and seem to recover from exposure to this type of environment still bear emotional scars that may lead them to experience these same health and psychological problems years or decades later.

There is a connection between children exposed to various forms of crime such as prostitution and parental neglect that interfere with the healthy development of children such as Mr. Melendez.

Mr. Melendez experienced a number of risk factors during his childhood and young adulthood in Tenancingo. Overtime, these experiences had a negative influence on his emotional development. These also opened the door for him to be at risk of criminal activity. No excuse exists for Mr. Melendez' illegal activities, but these do put his life and decisions making into a particular context that it is requested that your Honor consider at sentencing.

Inhumane Conditions in MDC

Mr. Melendez suffered through inhumane conditions at the MDC. From January 27, 2019 through February 3, 2019 a humanitarian crisis existed at the MDC. During that week Mr. Melendez and other inmates suffered through frigid temperatures without heat and other necessities including adequate safety, food, warmth, exercise, hygiene and medical care.

Problems with the heat and electrical systems were constant during January. The general failings of the MDC infrastructure has been widespread for years and continue to this day. During the week without heat and electricity, while sitting in the cell in the dark, Mr. Melendez often sat shivering in his bed, under his blanket without heat.

Honorable Allyne R. Ross
August 31, 2021
Page 4

Other conditions that he faced included no hot showers and hot water, cells with malfunctioning toilets and no access to regular or hot food.

The New York Times in an article on February 9, 2019 set forth:

The blackout crisis was the latest episode in a long history of neglect and brutality at the jail, one that has been documented in previous Justice Department reports. Investigators over the years have issued findings that suggest the jail is among the worst in the federal system, determining at different times that prisoners have been beaten, raped or held in inhumane conditions. “It is my opinion,” a former warden at the jail, Cameron Lindsay, said in an interview, that over the last decade, “the MDC was one of the most troubled, if not the most troubled facility in the Bureau of Prisons.”

Mr. Melendez has been at the MDC since October 18, 2018, which is more than 22 months. It is requested that your Honor consider the conditions throughout his incarceration at the MDC that Mr. Melendez in arriving at a fair and reasonable sentence.

Covid Pandemic

Since his trial concluded on March 12, 2020, Mr. Melendez has experienced the stress that he and other inmates faced and continue to face during the continuing Covid pandemic. Conditions at the MDC served as a petri dish for the coronavirus. MDC officials failed to handle the pandemic in the way it should have been handled. Medical treatment at times was non-existent and often ignored the medical need of inmates.

Reasonable Sentence

Mr. Melendez requests a sentence of 15 years based on the 18 U.S.C. 3553(a) factors presented to your Honor, which it is submitted is fair and reasonable. A sentence in excess of 15 years will deny Mr. Melendez hope. In United States v. Carvajal, 2005 U. S. Dist. LEXIS 3076 (S.D.N.Y.2005) The Honorable Alvin K. Hellerstein wrote:

Rehabilitation is a goal of punishment. (18 U.S.C. section 3553(a)(2)(D).) That goal cannot be served if a defendant can look forward to nothing beyond imprisonment. Hope is the necessary condition of mankind, we all are created in the image of God. A judge should be hesitant before sentencing so severely that he/she destroys all hope and takes away all possibility of a useful life. Punishment should not be more severe than necessary to satisfy the goals of punishment.

Honorable Allyne R. Ross
August 31, 2021
Page 5

The advisory guidelines indicate that a guideline sentence would provide a deterrent effect so in excess of what is required as to constitute a mitigating circumstance present to a degree not adequately considered by the Sentencing Commission.

Incarceration in Mexico

The PSR (par. 89) reflects that Mexican authorities arrested Mr. Melendez in February, 2018. He remained in Mexican custody for 10 months before his extradition to the United States. Whatever sentence your Honor intends to issue it is requested that Mr. Melendez receive credit for those 10 months. It will not be credited by the Bureau of Prisons, thus you Honor must reduce his sentence by 10 months for him to receive credit for the time spent in a Mexican jail on this matter.

Substance Use and Abuse History

Mr. Melendez during a presentence interview admitted to using cocaine for a short period but advised in 2011 and 2012 that he had a serious alcohol problem. The MDC offers no drug program.

Rosalio Melendez Rojas Faced Numerous Obstacles as a Youth and an Adult

Rosalio Melendez faced numerous obstacles to overcome to survive the circumstances he found himself. The fact is this young man did suffer from the lack of positive father figure, which among other factors impacted upon his growth as a person. His living in a crime ridden community and his poor self-image were difficult circumstances to overcome. The fact that he lived in Tenancingo a town in which its economic structure is based upon prostitution gave little hope or alternatives to succeed.

CONCLUSION

Based upon Mr. Melendez' childhood devoid of a positive father figure, which led to a poor self-image, the abuse he suffered emotionally through neglect, his emotional and mental health issues, his lack of education and other factors presented to your Honor he requests that the Court consider those factors in the determination of his sentence.

Respectfully yours,
/s/
Thomas F. X. Dunn

cc: Erin Argo, Esq.
Assistant U.S. Attorney

(by ECF)